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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/633,564

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Kyung-Geun Lee

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09/20/2006

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EXAMINER

PATEL, GAUTAM

ART UNIT

PAPER NUMBER

2627

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/633,564

Applicant(s)

LEE ET AL.

Examiner

Gautam R. Patel

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/7/06 & 8/28/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 15-18, 21, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 15-18, 21, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Response to Amendments**

1. This is in response to amendment filed on 8/28/06.
2. Claims 1-10, 15-18, 21 and 25-26 remain for examination.

### **Claim Objection**

3. The amendment filed 8/28/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The lead-in area itself having two track pitches is not disclosed in the specification at all.

NOTE For examination purposes it is assumed that the Applicants are referring to second area for recording and another area of a lead-in area.

Claims 10, 15-18, 21 and 25-26 are also objected having the material which implies that there are two lead-in areas, however it is clear from the specification and figure 2 there is only ONE lead-in area marked as area 10.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 U.S.C. § 112***

4. The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Art Unit: 2627

ABSTRACT, and paragraphs 5, 12 etc., simply states that “a track pitch in all or portion of the lead-in area is different from a track pitch in the remaining area of the optical information storage medium”. The specification does not disclose at all that “another portion of lead-in area itself has different track pitch”.

5. The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10, 15-18, 21 and 25-26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 11 is confusing and unclear. It is not clear at all where this second track pitch is located in the lead-in area which “another portion” of lead-in area and why this second pitch is in the so called another portion of lead-in area.

Claim 1, lines 11 the scope of " another portion of lead-in area " lacks proper antecedent basis. Even word “another portion” does not show up in the specification.

Rest of the claims have similar problem implying there is another lead-in area.

### **Claim Rejections - 35 U.S.C. § 102**

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10, 15-18, 21 and 25-26 are rejected under 35 U.S.C. § 102(b) as being anticipated by Morita et al., US. Patent Application Publication 5,793,741 (hereafter Morita).

As to claim 10, Morita discloses the invention as claimed [see Figs. 1-2, 10-11] including lead-in, lead-out, user areas, a first area, a second area and two track pitches, comprising:

lead-in area;

lead-out area; and

a user data area [program area];

wherein a first area of the lead-in area in which first data is recorded in corresponding first tracks, adjacent pairs of the first tracks having a first track pitch; and

a second area [of the lead-in area] in which second data is recorded in corresponding second tracks, adjacent pairs of the second tracks having a second track pitch other than the first track pitch wherein pits are formed in the tracks of the first area and second area [fig. 1; paragraphs 30, 71, 93-94 and 124-125].

7. The aforementioned claim 15, recites the following elements, inter alia, disclosed in Morita:

the first data comprises information used in reproduction of the second data [fig. 1; paragraphs 30, 71, 93-94 and 124-125].

8. The aforementioned claim 16, recites the following elements, inter alia, disclosed in Morita:

the second area includes a user data area of the optical information storage medium [fig. 1; paragraphs 30, 71, 93-94 and 124-125].

9. The aforementioned claim 17, recites the following elements, inter alia, disclosed in Morita:

the first data comprises information used in reproduction of the second data [fig. 1; paragraphs 30, 71, 93-94 and 124-125].

10. The aforementioned claim 18, recites the following elements, inter alia, disclosed in Morita:

the second area includes a lead-out area disposed outside of the user data area, the lead-out area including additional data other than the second data [fig. 1; paragraphs 30, 71, 93-94 and 124-125].

11. As to claim 21, it is claim corresponding to claim 10 and they are therefore rejected for the similar reasons set forth in the rejection of claim 10, supra.

Art Unit: 2627

As to the added limitations of an optical unit to transfer data and a controller associated with optical unit, these are components inherently present and are necessary to operate a disc and record and read data from it.

12. As to claim 25, its a claim corresponding to claim 14 and is therefore rejected for the similar reasons set forth in the rejection of claim 14, supra.

### **Claim Rejections - 35 U.S.C. § 103**

13. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 26 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Morita as applied to claim 1 and 21 above.

As to claim 26, Morita is silent as to if a differential signal is used for performing tracking. "Official Notice" is taken that both the concept and the advantages of providing a differential signal when transferring data are well known and expected in the art. It would have been obvious to include a differential signal to system of Morita as this signals are known to provide the system with more efficient way of transferring data and thus saving time and money for recording the information. These concepts are well known in the art and do not constitute a patentably distinct limitation, per se [M.P.E.P. 2144.03].

Also the Applicants are merely claiming how a tracking system works.

14. Applicant's arguments with respect to claims 1-10, 15-18, 21 and 25-26 have been considered but are moot in view of the new grounds of rejection.

15. A search based on the best understanding of the claims has been made to find the most pertinent art, but no statement about invention will be appropriate at this time regarding the

Art Unit: 2627

allowableness of claims 1-9 and no art rejection will be made in this office action regarding the claims 1-9, due to the speculation required to interpret the claims because of their indefiniteness under 35 U.S.C. 112, 1st and 2nd paragraphs as noted above (see In re Steele, 134 USPQ 292).

16. Applicant's amendment necessitated the new grounds of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

#### **Contact information**

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is 571-272-7625. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2600) where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Dwayne Bost, who can be reached on (571) 272-7023.

Any inquiry of a general nature or relating to the status of this application should be directed to the Electronic Business Center whose telephone number is 866-217-9197 or the USPTO contact Center telephone number is (800) PTO-9199.



Gautam R. Patel  
Primary Examiner  
Group Art Unit 2627

September 15, 2006